

Serial No. 09/806,801, filed April 4, 2001

Docket No. 1103326-0659

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REMARKS

On June 1, 2005, a *nonfinal* Office Action was issued in the referenced application. In the Office Action, pending claims 1-3, 6-23, and 25-28 were rejected under 35 U.S.C. §103(a) in view of EP 896,215 to Hammond et al. in combination with one or more of EP 767,369 to Trygstad, US 5,463,223 to Wong et al., DE 4441686 to Schilling, and US 5,679,954 to Solomon. In response to the Office Action, Applicants submitted an Amendment (the "Amendment") on August 26, 2005. In their response, Applicants amended the claims and provided extensive arguments distinguishing the amended claims over the cited prior art.

On October 31, 2005, a *final* Office Action was issued. In the *final* Office Action, the Examiner rejected the amended claims under 35 U.S.C. §103(a) on the same grounds *verbatim* as in the previous *nonfinal* Office Action, and did not substantively respond to Applicants' claim amendments and remarks. The Examiner merely stated that Applicants' arguments were unpersuasive, and did not address how the claim amendments were unsuccessful at overcoming the rejections of record.

Applicants submit that they have not received a fair examination on the merits. By not addressing Applicants' claim amendments and remarks, the Examiner did not make clear his reasons for maintaining the §103 rejection of record over the amended claims. As such, Applicants are at a distinct disadvantage in proceeding.

Accordingly, in the interest of fair play, the finality of the outstanding Office Action should be withdrawn. The Examiner is requested to issue a replacement Action identifying the reasons for maintaining the rejections under §103 over the claims as amended. To do otherwise would be an injustice to Applicants and the public.

In response to the outstanding *final* Office Action, Applicants request reconsideration of the Amendment filed August 26, 2005. In the absence of a statement of the Examiner's reasons for maintaining the §103 rejection over the amended claims, Applicants submit that the claimed invention is patentable over the cited prior art for the reasons set forth in the Amendment.

FROM W&C LLP 19TH FL

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Authorization is hereby given to charge any fee due in connection with this communication to Deposit Account No. 23-1703.

Dated: Dec. 8, 2005

Respectfully submitted,

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